

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION**

CRIMINAL NO. 2:99CR81

UNITED STATES OF AMERICA)

)

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vs.

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ORDER

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PETER KAY STERN

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THIS MATTER is before the Court on the Defendant's motion to reconsider the denial of his motion for a new trial.

On March 29, 2006, the undersigned denied the Defendant's motion for a new trial on a variety of grounds, including untimeliness. He now claims that motion, which was filed on March 23, 2006, was in actuality only a renewal of the motion he filed on January 17, 2002, a motion which he claims was held in abeyance while his case was on appeal. Besides the fact that this is blatantly incorrect, the January 17, 2002, motion was denied on January 23, 2002; thus, it could not have been held in abeyance during the appeal which was not filed until January 24, 2002. This is clearly a frivolous motion.

The Defendant is no stranger to this Court. Prisoners do not have an absolute and unconditional right of access to the courts in order to bring frivolous, malicious, abusive or vexatious motions. ***Demos v. Keating*, 33 Fed. Appx. 918 (10th Cir. 2002); *Tinker v. Hanks*, 255 F.3d 444, 445 (7th Cir. 2001); *In re Vincent*, 105 F.3d 943 (4th Cir. 1997).** The Defendant is hereby warned that future frivolous filings may result in the imposition of a pre-filing review system. ***Vestal v. Clinton*, 106 F.3d 553 (4th Cir. 1997).** If such a system is placed in effect, pleadings presented to the Court which are not made in good faith and which do not contain substance, will be summarily dismissed as frivolous. ***Foley v. Fix*, 106 F.3d 556 (4th Cir. 1997); *In re Joseph Marion Head*, 19 F.3d 1429 (table), 1994 WL 118464 (4th Cir. 1994).** Thereafter, if such writings persist, the pre-filing system may be modified to include an injunction from filings. ***See*, 28 U.S.C. § 1651(a); *In re Martin-Trigona*, 737 F.2d 1254 (2d Cir. 1984).**

IT IS, THEREFORE, ORDERED that the Defendant's motion to reconsider is hereby **DENIED**.

Signed: June 28, 2006

A handwritten signature in dark ink, appearing to read "L. H. Thornburg", is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

